IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 11TH SEPTEMBER 2007 / 20TH BHADRA 1929

Bail Appl..No. 5238 of 2007()

CRIME NO. 417/07 OF TANUR POLICE STATION

PETITIONER/ACCUSED:

NOTTAM VEETTIL MOHAMMED ALI @ ALI,
S/O. KOYAKUTTY, PANDI MUTTOM, NANNAMBRA,
MALAPPURAM DISTRICT.

BY ADV. SRI.K.K.MOHAMED RAVUF

RESPONDENT/COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY THE STATION HOUSE OFFICER,
TANUR POLICE STATION THROUGH PUBLIC PROSECUTOR.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 11/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 5238 of 2007

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Dated this the 11th day of September, 2007

O R D E R

Application for anticipatory bail. The petitioner faces allegations under the Essential Commodities Act and the Rule framed thereunder. The petitioner was allegedly found in unauthorised illicit possession of 60 litres of diesel, 47 litres of petrol and 25 litres of kerosene. The crime has been registered. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. Even if the entire allegations were accepted, it must be seen that these articles are available a plenty and there is no scarcity for these articles. The total possible value of these articles found in the possession of the petitioner and seized by the police may also be taken into consideration, it is submitted. The learned counsel, in these circumstances, prays that the petitioner may be spared of the undeserved trauma of arrest and detention in prison and he may be granted anticipatory bail.

3. The learned Prosecutor opposes the application. He submits that there are no circumstances which would suggest or warrant the invocation of the extra ordinary equitable discretion under Section 438 Cr.P.C. The petitioner does not have a case that he is authorised and is legally competent to deal with such commodities. He only denies the alleged seizure. The learned Prosecutor submits that the petitioner may be directed to appear before the Investigator or the learned Magistrate having jurisdiction and thereafter seek regular bail in the ordinary course.

4. I find merit in the opposition raised by the learned Prosecutor. I am satisfied that there are no features in this case which would justify the invocation of the extra ordinary equitable discretion under Section 438 Cr.P.C. This I am satisfied is an eminently fit case where the petitioner must resort to the ordinary and normal procedure of appearing before the Investigator or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

5. This application is accordingly dismissed. Needless to say, if the petitioner appears before the Investigating Officer or the learned Magistrate and applies for bail after giving sufficient prior notice to the

Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously.

(R. BASANT)
Judge

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